

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF VIRGINIA
Alexandria Division**

DEBORAH VILLOCH,
Plaintiff,

v.

ALEJANDRO MAYORKAS, in his
official capacity as Secretary of the U.S.
Department of Homeland Security,
Defendant.

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Case No. 1:23-cv-176

ORDER

This matter is before the Court on its own motion. Defendant Alejandro Mayorkas filed a motion to dismiss Plaintiff's complaint on July 17, 2023 (Dkt. 9). Instead of opposing that motion, Plaintiff Deborah Villoch instead moved to amend her complaint on August 14, 2023 (Dkt. 15). United States Magistrate Judge Lindsay R. Vaala granted that motion the next day and ordered Plaintiff to file her amended complaint by 5:00 p.m. on August 16, 2023 (Dkt. 18). To date, Plaintiff has not complied with Judge Vaala's order. However, Plaintiff did file a proposed amended complaint as an exhibit to her motion to amend (Dkt. 15-1). It is appropriate, given Plaintiff's failure to file timely her amended complaint, to adopt Plaintiff's proposed amended complaint as the operative pleading in this matter.

Accordingly,

It is **ORDERED** that Plaintiff's proposed amended complaint (Dkt. 15-1) is hereby **DESIGNATED** Plaintiff's First Amended Complaint and **DEEMED** the operative pleading in this case *nunc pro tunc* to August 16, 2023.


It is further **ORDERED** that Defendant's original motion to dismiss (Dkt. 9) is hereby **DENIED AS MOOT**. *See Fawzy v. Wauquiez Boats SNC*, 873 F.3d 451, 455 (4th Cir. 2018).

It is further **ORDERED** that Plaintiff is **DIRECTED** to respond to Defendant's motion to dismiss the amended complaint (Dkt. 21) on or before **September 15, 2023**, as required by Local Civil Rule 7(F)(1).

It is further **ORDERED** that Plaintiff is **WARNED** that failure to comply with this Court's orders may result in sanctions, up to and including involuntary dismissal of this case.

The Clerk of the Court is directed to provide a copy of this Order to all counsel of record.

Alexandria, Virginia
September 1, 2023



T. S. Ellis, III
United States District Judge